

REMARKS

Rejections under Non-statutory Obviousness-type Double Patenting

In an Office Action dated August 9, 2006, the Examiner rejected claims 15-16, 30, 35-36, 41-48, and 52-56 on the ground of non-statutory obviousness-type double patenting as being unpatentable over figures 1-2/ claim 1 of U.S. Patent Nos. D457,658; D457,972; and D458,388. Applicant herewith files a terminal disclaimer under 37 C.F.R. 1.321(c) to obviate the grounds of rejection.

Rejections under 35 U.S.C. § 103

The Examiner also rejected claims 15, 16, 30, and 45 as being unpatentable over U.S. Patent No. 6,295,776 to Kunz et al (hereinafter, "Kunz '776") in view of U.S. Patent No. RE34,547 to Weldy (hereinafter, "Weldy") and U.S. Patent No. 6,684,586 to Hoffmann, Sr. (hereinafter, "Hoffmann").

Claims 16, 35-36, and 46-48 were rejected as being unpatentable over U.S. Patent No. 5,131,198 to Ritchie et al (hereinafter, "Ritchie") in view of Weldy and Hoffmann.

Claims 41-44 and 52, 53, 55 and 56 were rejected as being unpatentable over Kunz in view of Hoffmann.

Claim 45 was rejected as being unpatentable over Kunz in view of Hoffmann as applied to claim 41 and further in view of Weldy.

Claim 54 was rejected as being unpatentable over Kunz in view of Hoffmann as applied to claim 53 and further in view of Weldy.

The Office Action states that Kunz shows a drywall trim device comprising a relatively rigid elongated core having a curved transverse cross section so as to have a convex outer surface and a concave inner surface, a pair of flanges terminating in

respective longitudinal edges to form flexible flaps having outward and inward surfaces, the flaps formed with spaced apart perforations on the outward surfaces. The Office Action concedes however, that Kunz does not show the flap having elongated grooves and ridges with at least the inward surfaces including the ridges for anchoring the joint compound on the drywall corner joint with at least the outward surfaces including the grooves, the perforations being in the grooves of the outward surfaces as claimed in Applicant's independent claims 15, 16, 30, and 45. The Office Action relies on Weldy in an effort to show flaps having grooves and ridges formed by striations and perforations for assisting with the anchoring of the device into the corner. The Office Action then relies on Hoffmann to show grooves and ridges on the inward surfaces for anchoring joint compound on the drywall corner joint. However, the interpretation of these references and rationale to combine these references is inaccurate, misleading, and even if combined, would not lead to Applicant's results.

Applicant's Invention

Applicant's invention utilizes a two-piece construction utilizing a tape-on scheme for attachment to a dry wall surface. First, there is a core to provide a body having some degree of rigidity. Such a core is typically metal or plastic. The corner of the core may be a right angle, obtuse or curved. The core is covered with a flexible sheet such as paper that projects laterally to at least one side of the core so as to form a flexible flap or flaps. The flaps are configured on at least their inner surfaces facing the drywall with ridges and grooves to embed in uncured joint compound to, when cured, be firmly anchored in place to thus avoid dislodgement during the further finishing and painting process. This then provides reliable anchoring while eliminating the time consuming task of nailing and the expensive process of replacement when other tape-on anchoring designs prove inadequate as would often be the case with planar flap construction as taught by Kunz. In the preferred embodiment, the flaps are formed along their length with ridges formed by

the inward depressed grooves spaced apart about 1/8 of an inch and with the ribs being about 1/64 of an inch high. Perforations are formed through the inward facing depressions permitting joint compound applied to the drywall surface to attach to the inward facing depressions and to flow through the perforations forming columns exhibiting shear strength and forcefully resist lateral displacement of the flaps.

Kunz

Kunz '766 is directed to a conventional tape on bead with flat planar paper wings to be laid flat over the marginal surface of a drywall panel (Fig. 1). According to Kunz, this corner bead structure avoids the cracking that develops in nail-on beads and tolerates dimensional changes in the underlying framing of drywall construction where rigid nail-on beads do not adapt well (Col. 1, lines 55-67), thus teaching away from combining with nail-on type structures.

Weldy

Weldy proposes a nail-on type wallboard corner joint for use in the intersection of two or three drywall edges such as for inside or outside corners. Weldy extrudes a single piece of plastic forming shallow striations on his flanges which will face outwardly when secured over an inner or outer wall intersection (Col. 3, lines 34-37). The striations are "much like record grooves", (Col. 3, line 38) to provide a gripping surface for mud to stick to the outside surface facing the room. Without the striations, the mud would just fall off the exposed surface of the joint (Col. 3, lines 32-47). Alternatively, Weldy proposes adding holes 26 to the legs for mud too "ooze" through and better attach to the legs (Col. 3, line 56). The joint body itself is soft enough to allow nails to be hammered through and the nail heads covered by the mud will be sanded down for aesthetics (Col. 3, lines 19-32).

Hoffmann

Hoffmann teaches a strip of mineral filled polymer used as a corner bead. The strip is preferably filled with a mineral such as talc-filled propylene (Col. 3 lines 36-42). Depressions 16 and perforations 14 are formed on the outer surface 20. The inside surface 22 is formed with knurls 18 along its length (Col. 3, lines 15-35). The perforations are located adjacent to knurls (Col. 3, lines 57-60).

Ritchie

Ritchie teaches using a nail-on type corner bead with a metal core and a paper layer folded around the outer edges of and bonded to the corner element. A reinforcing layer of paper is placed on the core and between the folded portions of the front paper layer.

Applicant's Arguments

Applicant has carefully reviewed the arguments presented in the Office Action and respectfully requests reconsideration of the claims in view of the remarks presented below.

Rejections based on Nonstatutory Obviousness-type Double Patenting

Applicant has filed along with the amendment a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) that Applicant believes addresses the rejections to claims based on nonstatutory obviousness-type double patenting.

Rejections to Claims 15,16, 30 and 45 based on the reference to Kunz in view of Weldy and Hoffmann

As previously described, Kunz proposes using a tape-on type corner bead while Weldy discloses a nail-on style corner joint. It is inappropriate to combine Weldy with Kunz because there is no suggestion motivating one to use Weldy's nail-on type corner joint to solve the problems described by Kunz' tape-on type corner bead. To illustrate this, Weldy's one-piece corner joint design advocates the advantages of forming extruded plastic legs or flanges with striations on their exterior surface at a corner fitting. Kunz, instead, teaches away from using the one-piece construction of Weldy. Kunz has a metal core strip 12 with a paper cover strip 20 exterior surface to which a joint cement 28 adhere (Col. 3, lines 14-19 and Col. 4, lines 53-55). Kunz teaches that rigid nail-on corner beads are less tolerant of dimensional and geometric changes in underlying framing than the tape-on style corner beads he proposes (Col. 1, lines 63-67). Kunz further expresses that nail-on beads are more susceptible to developing crack lines along their outer edges, unlike tape-on beads (Col. 1, lines 61-63). Furthermore, Kunz teaches that a corner bead design should promote a smooth finished surface after application of joint compound that is held more securely to paper than nail-on corner bead designs. Kunz therefore teaches away from Weldy's use of a striated surface on rigid extrusions where joint compound will be applied. Without Applicant's teachings, there is no reason one ordinarily skilled in the art would seek to add the striations of Weldy to either the flanges or flaps of Kunz.

Similarly, one looking to solve one of Weldy's problems would look away from using a corner bead of Kunz' construction. This is evident where Weldy teaches away from using a metal core and paper flap construction. Where Kunz is a two-piece tape-on drywall corner bead, the corner joint in Weldy is a nail-on type corner bead extruded into a one-piece construction entirely of plastic to overcome alleged deficiencies in metal core corner beads that may rust and be more expensive. Weldy explicitly states that metal strips for corner bead finishes are an inferior and undesirable option in Column 1, lines 22-54. For example, Weldy states, "[a]nother drawback of the metallic strips is inherent

in the fact that the malleable metal from which they are made has a very poor memory and is subject to being dented or wrinkled, after which it is difficult to straighten to produce a smooth finish. Because of the rough handling to which most of the material at a work site is subjected to, it is not uncommon for the strips to be wrinkled, dented and perhaps twisted, thus rendering them ... unusable..." (Col. 1, lines 36-44). Thus, Weldy expressly teaches away from Kunz and one ordinarily skilled in the art would not look to apply Weldy's teachings to a corner bead proposed by Kunz.

Additionally, there is no support in the Office Action to combine Hoffmann to produce grooves and ridges on the inward surfaces of paper flaps for anchoring in joint compound on the drywall corner joint. As previously described, Hoffmann specifies a one piece talc-filled polymer strip and teaches away from two piece laminations by degrading the prior art for using glue to attach a flap as expensive and difficult making the end product expensive and subject to delaminating when drywall compound, as opposed to a mechanical method, used to connect the drywall (Col. 1, lines 30-37). Thus, one ordinarily skilled in the art would not be motivated to combine Hoffmann with the teachings of either Kunz or Weldy because they expressly teach away from each other. Kunz specifies laminated construction, Hoffman one piece construction, and Weldy striations only on the side facing away from the drywall. There is no showing of a motivation to add a paper flap to Hoffman.

Furthermore, the Office Action's interpretation of Kunz, Weldy, and Hoffmann is erroneous in the structural combination of the limitations and lacks each and every element of the proposed claim. The combination of the three references does not result in a structure equivalent to Applicant's corner bead as claimed in Independent Claims 15, 16, 30 or 45.

Modifying Weldy to combine with Kunz will not result in Applicant's corner bead structure because Weldy's legs and holes are not the same as Applicant's flaps and

perforations. Weldy teaches the legs with a smooth inward surface and holes on the joint surface spanning across several adjacent striations for permitting mud applied to the leg surface to grip the joint surface through the hole. This is not the same as Applicant's perforations in grooves of the outward surfaces (or ridges of the inward facing surface) that permit joint compound applied to the drywall surface to communicate outwardly and form columns through the holes providing more attachment of the drywall surface to the flap as opposed to Weldy's design that provides for better attachment of the paper strip outward facing surface to the wall. This stems from the difference in structure and purpose between Weldy's striations and Applicant's ridges.

Weldy's striations are not the same as Applicant's depressions and ridges. Weldy's striations are formed on the outward surface of the legs and are "much like record grooves", (Col. 3, line 38). Weldy uses the striation formation to provide a better traction for mud to attach to the leg and to permit a concealed profile for creating a smooth finishing of the joint compound. Modifying the striations of Weldy so that their size and amplitude are increased to a size to create depressions, ridges, and spacing sufficient to anchor to the joint compound would defeat these objectives by providing less surface traction and appearing more pronounced under the primer finish. Unlike Applicant's design, Weldy is concerned with keeping the corner joint on the drywall by using nails whereas Applicant's design aids in keeping the corner bead attached to the wall by using his paper structure and adhesive. As one can also appreciate, Applicant's placement of the perforations aids the adhesive in creating a superior attachment of the paper cover to the drywall surface.

Thus, any suggestions or motivations to combine these references comes from Applicant's disclosure and not from the prior art. To modify as proposed by the Office Action would be to defeat the planar paper flap surface of Kunz, enlarge the striation of Weldy creating exposed surface irregularities and laminate the talc filled tape of

Hoffmann to a core making it a two-piece construction. The structural combination of these features would result in a corner bead with talc filled flaps that have thin striations on its outward facing surface and ridges on its inward facing surface. Modifying references where it would defeat their suggested use is not permitted.

Rejections to Claims 41-44, 52, 53, and 55 based on the reference to Kunz in view of Hoffmann

Claim 41

Claim 41 recites a tape-on drywall fitting device including an elongated core have an elongated edge with a paper cover projecting laterally beyond the edge to form a paper flap having an outwardly facing surface and an inwardly facing surface with at least the inwardly facing surface having a plurality of spaced apart ridges.

As previously discussed, Hoffmann teaches away from employing laminated corner beads. As such, there is no teaching, suggestion or motivation to combine the polymer tape of Hoffmann with the corner bead design of Kunz.

Claim 42 depends from independent Claim 41 and provides that the ridges are of uniform height and is patentable for the same reason as Claim 41.

Claim 43 also depends from Claim 41 and claims spacing the ridges equidistant apart and is patentable for the same reason as Claim 41.

Claim 44 depends from Claim 41 and provides that the ridges be continuous in the longitudinal direction of the flap and is patentable for the same reason as Claim 41.

Claim 52

Independent claim 52 recites a drywall protection strip device with a relatively rigid core for overlying the abutting edges of drywall panels and the marginal edges of the panels adjacent to the abutting edges, a relatively flexible cover strip for overlying the core and bonded thereto, the cover projecting beyond the opposite sides of the core to form respective flexible flaps formed with inner and outer sides and the inner sides of the flaps being formed with a plurality of alternating longitudinal flap grooves and ridges to be embedded in joint compound interposed between the inner sides and a respective corresponding portion of the exterior surfaces of the drywall panels to fill the grooves and anchor the respective flaps in the compound.

As previously discussed, Hoffmann teaches away from laminated corner bead designs with a core. As such, there is no teaching, suggestion or motivation to combine the polymer tape of Hoffmann with the corner bead design of Kunz.

Claim 53 depends from Claim 52 and claims a plurality of perforations along the length of the flaps and filled with joint compound to form compound posts which cooperate with the compound ridges to mechanically resist displacement of the core. Neither Kuntz nor Hoffmann discloses perforations filled with joint compound posts cooperating with ridges.

Claim 54 depends from Claim 53 which also depends from Claim 52 further including flaps formed with perforations disposed in longitudinal rows and are further formed on their respective outer sides with grooves aligned with the respective rows of perforations to cooperate in, during application of the joint compound, funneling the

compound to respective perforations. Claim 54 is patentable for the same reasons as claim 52.

Claim 55 is dependent on Claim 52 and further claims ridges and grooves being continuous throughout the length of the flap. Claim 55 is patentable for the same reasons as claims 52 and 53.

Claim 56 recites a flexible core with attached flexible planar paper flaps deformed to a diminished area to form depressions with ridges on the inward facing surface of the flaps. Claim 56 is patentable for the same reasons as claim 52.

Rejections to claims 16, 35-36 and 46-48 based on Ritchie in view of Weldy and Hoffmann

No Motivation to Combine

Independent Claims 16 and 46

For many of the same reasons as argued for the rejection to Claim 15 based on Kunz in view of Weldy and Hoffmann above, combining Ritchie with Weldy and Hoffmann is also inappropriate to reject Claims 16 and 46. Nothing in Ritchie, Weldy, or Hoffmann suggest applying the nail-on corner bead design of Ritchie or Weldy to a tape-on a one piece style corner bead of Hoffmann. Also, Ritchie also teaches using a metal core in his corner bead in direct contrast to Weldy whom expressly teaches away from using a metal core and instead proposes using an all-plastic joint to avoid combining the features of Weldy with corner beads such as Ritchie's. Furthermore, nothing in Hoffmann suggests using his corner bead tape to the rigid corner beads of Ritchie or Weldy since Hoffmann expressly teaches away from laminated construction. Hence, any suggestions or motivations to combine these references comes from Applicant's disclosure and not from the prior art.

Once again, any suggestions or motivations to combine these references comes from Applicant's disclosure and not from the prior art. To modify as proposed by the Office Action would be to defeat the nail-on style corner bead of Ritchie, enlarge the striation of Weldy creating exposed surface irregularities and laminate the talc filled tape of Hoffmann intended for one-piece construction to a core forming a two-piece construction. The structural combination of these features would result in a nailed-on corner bead with talc filled flaps that have thin striations on their outward facing surface and ridges on their inward facing surface. Modifying references where it would defeat their suggested use is not permitted. Hence, none of the prior art references relied upon motivate or suggest to one skilled in the art that they should be combined to arrive at applicant's invention.

Claim 35 is dependent on Claim 16 and claims a paper cover constructed of fibers mixed with a strengthening compound at the time of manufacture. Claim 35 is patentable for the same reasons as claim 16 and also because no where in Ritchie, Weldy or Hoffmann does it suggest such a limitation. Ritchie teaches a protective coating applied to the paper and does not teach mixing the fibers with a strengthening compound. Weldy is made entirely of plastic and Hoffmann is constructed of a polymer filled with talc.

Claim 36 depends from Claim 35 and provides encapsulating the fibers with the strengthening compound. Claim 36 is patentable for the same reasons as claims 16 and 35 and also because no where in Ritchie, Weldy or Hoffmann does it suggest such a limitation. Ritchie teaches a protective coating applied to the paper and does not teach encapsulating the fibers with a strengthening compound. Weldy is made entirely of plastic and Hoffmann is constructed of a polymer filled with talc. To modify to paper would be to defeat a major object of these inventions.

Claim 47 depends from claim 46 and provides making the paper cover from fiber elements mixed with a strengthening compound at the time of manufacture. Claim 47 is

patentable for the same reasons as claim 46 and also because the cited references are all silent about with respect to mixing a strengthening compound at the time of manufacture with fiber elements.

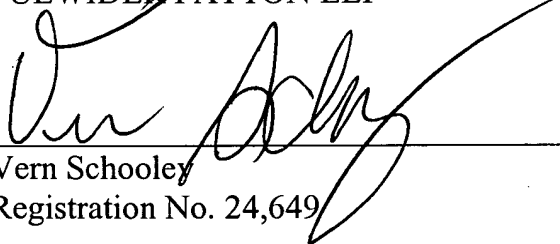
Claim 48 depends from claim 46 and includes the formation of perforations in the paper grooves. Claim 48 is patentable for the same reasons as claim 46 and as previously discussed because the cited references are all silent about forming perforations in the grooves.

In light of the above remarks, Applicant respectfully requests reconsideration of the claims and that a timely Notice of Allowance be issued in this case. Should the examiner not be in agreement, it is respectfully requested that he telephone the undersigned attorney to discuss the features of the invention to place the case in better condition for appeal.

Respectfully submitted,

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